

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RICHARD G. KIRBY,

Petitioner,

v.

CIV 08-886 MV/CG

JAMES JANECKA, Warden, and
GARY K. KING, Attorney General
for the State of New Mexico,

Respondents.

ORDER DENYING MOTION
WITHOUT PREJUDICE

This habeas matter is before Court *sua sponte*. Petitioner's latest motion and notices of address indicate that he has been released from prison. See *Docs. 27, 31, 33*. As such, he filed a motion asking the Court to dismiss Respondent Janecka. See *Doc. 27*. However, the case is presently on appeal to the Tenth Circuit.

Wherefore,

IT IS HEREBY ORDERED that Petitioner's motion (*Doc. 27*) is denied without prejudice. He may renew the motion, if necessary, pending resolution of the appeal.



UNITED STATES MAGISTRATE JUDGE